IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 11TH JULY 2007 / 20TH ASHADHA 1929

RPFC.No. 274 of 2007()

MC.88/2006 of the Family Court, Malappuram

RESPONDENT:

ISMAIL, AGED 30 YEARS,
S/O.MUHAMMADKUTTY, KARIMPANAKKAL HOUSE,
PULLUR, THEKKAN KUTTOOR P.O., TIRUR TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS: PETITIONER:

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1. SUHARA, D/O.MUHAMMED BAPPU,
AGED 22 YEARS, EDAYATH HOUSE, VAIRAMKODE P.O.,
ANANTHAVOOR AMSOM, KAITHAKKARA DESOM, TIRUR TALUK,
MALAPPURAM DISTRICT.

2. NIDAN, 3 YEARS, MINOR, S/O. ISMAIL.

3. NIHAL, 2 YEARS, MINOR, S/O.ISMAIL.
MINOR RESPONDENTS ARE REPRESENTED BY GUARDIAN
MOTHER THE FIRST RESPONDENT.

BY ADV. SRI.BABU S. NAIR
PUBLIC PROSECUTORMATHEW JOHN AMBOOKKAN

THIS REV.PETITION(FAMILY COURT) HAVING COME UP FOR ADMISSION ON 11/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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R.P. (FC) No. 274 of 2007

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Dated, this the 11th day of July 2007

ORDER

The Revision Petitioner who is the husband of the first respondent and father of respondents 2 and 3 challenges the final order dated 11-07-2007 passed by the Family Court, Malappuram in Crl. M.C. 88 of 2006 directing the revision petitioner to pay maintenance to his wife at the rate of Rs. 1,000/- per month and to respondents 2 and 3 at the rate of Rs. 750/- and Rs. 500/- respectively per month from the date of petition namely, 13-2-2006.

2. According to the learned counsel for the revision petitioner, petitioner is a coolie who does not have sufficient income to honour the direction in the impugned order and the only alternative before him is to go to jail.

3. Probably what impelled the Family Court to pass the impugned order was the failure on the part of the revision petitioner to pay interim maintenance the stand taken by the revision petitioner that "he will not pay any pie to his wife and minor children, whatever be the consequences". But that cannot be a substitute for evidence. The Court had to come to a definite finding regarding the monthly income of the revision petitioner after considering the evidence on record. Except the proof affidavit of the Ist respondent,

there was no evidence adduced by the respondent herein to prove the monthly income of the revision petitioner. Under these circumstances, I have no alternative, except to set aside the final order and direct the Family Court to pass orders afresh after conducting a proper enquiry regarding the means of the revision petitioner and after deciding the quantum of maintenance consistent with the finding regarding the means . The Revision Petitioner cannot however, keep the respondents in vagrancy and starvation. He shall, therefore, deposit a sum of **Rs. 25,000/- (Rupees twenty five thousand only)** before the Family Court within one month from today. If the amount is not deposited as aforesaid, the revision petitioner will not be entitled to have a contested disposal and the impugned order will stand revived. As and when the amount is deposited, the same can be withdrawn by the respondents herein. The Family Court shall make an earnest endeavor to dispose of the M.C. within five months of receipt of a copy of this order. If, for any reason, that court is not able to dispose of the matter within the above time frame he shall send a report to this court, through proper channel, explaining the reasons.

This RPFC is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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